

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682



Sent Via U.S. Certified Mail Return Receipt Requested

CEASE AND DESIST ORDER

Property Owner:	Mr. James Silveria	Date: September 4, 2015
Mailing Address:	PO Box 682	Enforcement Action: 2014-790
	French Camp, California 95231	

Encroachment Location: 1672 W Bowman Road
French Camp, California 95231
San Joaquin River East Project Levee, Right (East) Bank, Unit 2
Levee Mile 4.18 to 4.35
Latitude: 37°51'46.33"N, Longitude: 121°19'10.74"W

Local Maintaining Agency: Reclamation District No. 0017

Assessor Parcel Number: 191-280-16, 191-280-15, 191-280-29, 191-280-13 (San Joaquin County)

The State of California - Central Valley Flood Protection Board (CVFPB) staff has documentation that encroachment violations of the State Plan of Flood Control (SPFC) exist within its jurisdiction at the above location as described in the attached Notice of Violation (NOV) (see Attachment 1), dated June 15, 2015.

CVFPB staff was recently notified that additional work that also violates the SPFC exists at this location, some of which occurred after the issuance of the attached NOV. CVFPB staff finds that issuing another NOV for the additional work would be futile, since the two notices previously sent did not result in voluntary compliance. Therefore, this Cease and Desist (C&D) Order includes the encroachments in the NOV, and the additional work described below, which was constructed without obtaining authorization from the CVFPB and is in violation of California Code of Regulations (CCR) Title 23, Section 6(a).

1. Metal fencing within the Sacramento-San Joaquin Drainage District easement on the landside levee toe, which violates California Code of Regulations (CCR) Title 23:

Section 126 (a)(2) Fences and Gates. All fences parallel to a levee must be located a minimum distance of ten feet off the levee toe.

2. Two retaining walls that appear to cut into the levee toe, and also appear to encroach into the SSJDD easement.

These encroachments are not compliant with Title 23 and are not eligible for a permit. These encroachments and associated levee repairs must be included in the required Removal and Repair Plan.

By issuing this C&D Order, the CVFPB staff is notifying you that the corrective actions described above and in the attached NOV must be completed by or before October 22, 2015. The corrective actions must also include submittal of a Removal and Repair Plan by September 22, 2015. As the property owner, you are responsible for notifying all applicable agencies and obtaining necessary approvals for the corrective action work. Failure to comply with this C&D will subject you to an enforcement order under Water Code Section 8701.4, which may order remedial and enforcement actions, including but not limited to, administrative penalties. See Water Code Section 8701.4 for a complete list of actions that the CVFPB may take, and Water Code Sections 8704 and 8704.1 for penalty provisions.

This C&D will be considered by the CVFPB during a regular scheduled meeting as follows:

Meeting Date: Friday, October 23, 2015 starting at 9:00 AM.

Meeting Location: Sacramento City Hall
First Floor Council Chamber
915 I Street
Sacramento, California 95814

This meeting will be your opportunity to appear before the CVFPB to contest this C&D.

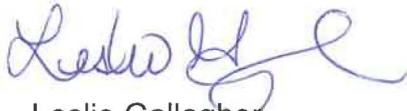
At this meeting, the CVFPB may affirm, amend, modify, stay, or rescind this C&D. If you fail to appear at the above mentioned meeting, the C&D may be approved by default.

CVFPB Contact:

The staff member assigned to this enforcement action is Alison Tang, Staff Engineer, Enforcement Section. E-mail: Alison.Tang@water.ca.gov, desk: (916) 574-2389.

If you have any questions, please contact Michael C. Wright, PE, Chief of the Enforcement Section at E-mail: michael.wright@water.ca.gov, desk: (916) 574-0698.

Signed,



Leslie Gallagher
Executive Officer

Attachments:

1. Notice of Violation dated June 15, 2015
2. Response from landowner dated January 7, 2015 to Fact-Finding Letter dated December 9, 2014

cc: See Attached List

James Silveria
September 4, 2015
Page 3

cc: Mr. Christopher Neudeck, RD 17
Mr. Paul Maniccia, USACE
Mr. Don Rasmussen, DWR
Mr. Wade Wylie, DWR
Mr. Len Marino, CVFPB
Ms. Mitra Emami, CVFPB
Mr. Michael C. Wright, CVFPB
Mr. James Herota, CVFPB
Ms. Alison Tang, CVFPB
Ms. Lori Brock, DWR

CENTRAL VALLEY FLOOD PROTECTION BOARD

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PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent Via U.S. Certified Mail Return Receipt Requested

YOUR RESPONSE IS REQUIRED BY: JULY 15, 2015

June 15, 2015

Mr. James Silveria
1672 W Bowman Road
PO Box 682
French Camp, California 95231

Subject: **Notice of Violation – Noncompliant Encroachments**
Enforcement Action: No. 2014-790

Dear Mr. Silveria:

The State of California, Central Valley Flood Protection Board (CVFPB) staff issued you a letter dated December 4, 2014 regarding unpermitted and noncompliant encroachments on your property at 1672 W Bowman Road in French Camp, California. CVFPB staff received your response dated January 7, 2015 and has determined that it did not adequately address the concerns and requests of the December 4, 2014 letter. Therefore, CVFPB staff is issuing you the attached Notice of Violation (NOV) formally noticing you to address the noncompliant encroachments in accordance with the California Water Code (Division 5, Part 4) and the California Code of Regulations (Title 23, Waters).

If you have questions about this letter or the NOV, please contact Ms. Alison Tang, Staff Engineer, at (916) 574-2389, or by e-mail at Alison.Tang@water.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leslie Gallagher".

Leslie Gallagher
Acting Executive Officer

Attachment: Notice of Violation

cc: See attached list

Mr. Silveria
June 15, 2015
Page 2

cc: Mr. Christopher Neudeck, RD 17
Mr. Don Rasmussen, DWR
Mr. Len Marino, CVFPB
Ms. Mitra Emami, CVFPB
Mr. Michael C. Wright, CVFPB
Mr. James Herota, CVFPB
Ms. Alison Tang, CVFPB

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
 SACRAMENTO, CA 95821
 (916) 574-0609 FAX: (916) 574-0682

**NOTICE OF VIOLATION****NONCOMPLIANT ENCROACHMENTS**

YOUR RESPONSE IS REQUIRED BY: JULY 15, 2015

Property Owner: Mr. James Silveria **Date:** June 15, 2015
Mailing Address: PO Box 682 **Enforcement Action:** 2014-790
 French Camp, California 95231 **USACE IDs:** See Section A

Encroachment Location: 1672 W Bowman Road
 French Camp, California 95231
 San Joaquin River East Project Levee, Right (East) Bank, Unit 2
 Levee Mile 4.18 to 4.35
 Latitude: 37°51'46.33"N, Longitude: 121°19'10.74"W

Local Maintaining Agency: Reclamation District No. 0017

Assessor Parcel Numbers: 191-280-16, 191-280-15, 191-280-29, 191-280-13 (San Joaquin County)

Section A – Summary of Encroachment Violations

Description: Pursuant to California Water Code (CWC) Section 8701, the Central Valley Flood Protection Board (CVFPB) may issue a notice of violation (NOV) to the person or public agency responsible for the encroachment, flood system improvement, or activity that is in violation of Par 4, Division 5 of the CWC. A recent inspection by CVFPB staff has determined that your encroachment, flood system improvement, or activity, interferes with or obstructs the performance, maintenance, or operation of flood control facilities that are regulated by the CVFPB.

The following noncompliant encroachments violate the following California Code of Regulations (CCR) Title 23 Sections:

Item No.	Encroachment Description	CCR Title 23 Sections Violated	Levee Mile	(Office use only) USACE ID MOS2 2009
1.	Low dense landscaped shrubs, small trees and irrigation covering the landside levee slope prevent levee maintenance and obstruct the visual inspection of the levee slope and toe. No encroachment permits found that authorize this vegetation.	6(a), 131(c), 131(d), 131(f)(7)	4.18 to 4.27	199
2.	Broken 2-inch diameter pipeline and adjacent electrical conduit penetrating the levee from the waterside slope appears to be abandoned, but not properly removed.	124(a)	4.21	155
3.	Chain link fence crossing the levee impedes levee maintenance and flood fight procedures. No encroachment permits found that authorize this encroachment.	6(a)	4.21	154

C&D ATTACHMENT 1

Notice of Violation
Page 2 of 5

4.	Line of tall 18-inch- to 36-inch-diameter trees on and near the landside levee toe prevent levee maintenance access and obstruct the visual inspection of the levee slope and toe. No encroachment permits found that authorize these trees.	6(a), 131(c), 131(d), 131(f)(4), 131(f)(7)	4.22 to 4.27	197
5.	Grapevine plants and associated stakes, irrigation, and retaining wall boards on the landside levee slope prevent levee maintenance access and obstruct the visual inspection of the levee slope. A November 4, 1994 order from the Reclamation Board (now the CVFPB) requires the removal of these encroachments.	131(c), 131(d), 131(f)(7)	4.22 to 4.27	196
6.	The dilapidated pump house, concrete steps, handrail on waterside toe and slope are not compliant with Encroachment Permit (EP) No. 15112 BD Conditions 2, 28, and 31. The encroachment permit does not authorize construction of the concrete steps or handrail, and it requires suitable protective housing for the pump unit.	6(a), 137(c)(4), 137(c)(5), 137(c)(6)	4.25	202
7.	Steps on landside slope, gate at landside toe. No permits found authorizing encroachments.	6(a), 126(a)(2), 137(c)(4)	4.25	n/a
8.	Wood deck, steps, concrete pad, and driveway attached to the brick building. No permits were found that authorize these encroachments.	6(a), 120(d), 137(d)	4.27 to 4.28	194
9.	Chain link fence crossing the levee with no encroachment permit found impedes levee maintenance and flood fight procedures.	6(a)	4.28	195
10.	Two-inch diameter steel pipe coming out of the landside slope appears abandoned, but not properly removed.	6(a), 124(a)	4.30	189
11.	Eroded steps with handrail and concrete-block retaining wall terracing the upper landside slope. No permits were found that authorize these encroachments. The encroachments are in poor condition and appear abandoned.	6(a), 125(a)(2)	4.30	190
12.	Tall 18-inch-diameter tropical tree on landside hinge. No permits were found that authorize this encroachment.	131(f)(5)	4.30	191
13.	Wooden stairs with abandoned wood boat dock and fallen flag pole. No permits were found that authorize these encroachments. The encroachments are in hazardous condition and appear abandoned.	6(a), 127(a)(2)(A)(i)&(ii), 137(c)(4), 137(c)(5), 137(c)(6)	4.30	205

Legal Authority: The encroachments listed above in Section A violate State statutes or federal regulations, or both. See Exhibit 1 for a description of the statutes and the regulations violated.

Past Decisions and Notices (see Exhibit 2)

1. September 20, 1993: The Reclamation Board (now CVFPB) denied EP Application No. 16065 for the retention of unauthorized grape vine plantings on the levee at the permit application hearing.
2. March 4, 1994: The Reclamation Board denied EP Application No. 16065 at the permit application reconsideration hearing of the September 17, 1993 decision.
3. November 4, 1994: Reclamation Board staff letter to encroachment owner ordering removal of encroachment by January 1, 1995.

9. Provide encroachment permit information for the chain link fence crossing the levee at levee mile 4.30. If none exists, remove the fence.
10. The two-inch diameter steel pipe in the landside slope does not have an encroachment permit, and therefore must be removed from the levee.
11. The eroded steps with handrail and concrete-block retaining walls on the landside slope must be removed from the levee.
12. The tropical tree, including its root ball, on the landside levee hinge must be removed from the levee.
13. The wooden stairs, abandoned wood boat dock, and fallen flag pole on the levee waterside must be removed.
14. Any excavation or voids must be backfilled and compacted, and the levee repaired in compliance with CCR Title 23. Any debris generated from the removal activities must be discarded out of the floodway and at least 10 feet away from the landside levee toe.
15. Any work that required the replacement and re-compaction of levee material must be documented in a post-removal and/or repair report which includes soil compaction tests and photographs of all pre- and post-removal and/or repair work.

In addition to obtaining prior approval from the CVFPB, it is your responsibility to obtain all other approvals and permits that may be required for the corrective actions specified above.

Section C – Consequences of No Action or No Response

You have until **July 15, 2015** and **August 17, 2015** to comply with the corrective actions noted above in Section B. Failure to comply with corrective actions, including the submittal of the Removal and/or Repair Plan by June 15, 2015 may result in the CVFPB staff issuing you a Cease and Desist Order and the imposition of further remedial and enforcement actions, including, but not limited to, corrections of the violation by the CVFPB at the responsible parties' expense, and penalties. The penalties can range from \$500 to \$50,000, and additional penalties may apply under certain circumstances. See CWC Sections 8704 and 8704.1 for penalty provisions.

The issuance of this NOV is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) pursuant to California Code of Regulations, Title 14, section 15321 (enforcement action taken by a regulatory agency) and section 15301 (repair or minor alteration to an existing facility).

If you possess documentation from the CVFPB that, in your opinion, allows you to maintain the encroachments described in Section A, please provide those documents to the CVFPB staff for consideration on or before June 15, 2015.

4. December 4, 2014: CVFPB letter requesting Removal and Repair Plan with Schedule to address noncompliant encroachments.

Section B – Corrective Action

CCR Title 23 allows the CVFPB to require that all noncompliant and unpermitted encroachments on a levee, within the levee, within 10-feet of the levee toes, or located in an easement held by the Sacramento-San Joaquin Drainage District, be removed. Encroachments within the floodway that do not comply with state and federal laws cannot be permitted and must be removed by the landowner at the landowner's expense. Encroachments within the floodway that comply with state and federal laws will require a CVFPB encroachment permit. You may apply for a CVFPB encroachment permit if your encroachment does not violate State or Federal law. The list below indicates whether the specific encroachment may be eligible for a permit.

A Removal and Repair Plan with Schedule ("Plan") that complies with the CWC, CCR Title 23, and Code of Federal Regulations Title 33 is **required by July 15, 2015** for the removal and repair work to be **completed by August 17, 2015**. Upon CVFPB staff approval of the proposed Plan, a work authorization agreement will be signed by both parties for the Plan work to commence.

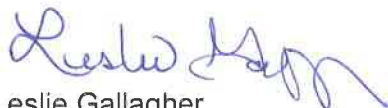
1. The shrubs, trees, and irrigation must be removed from landside levee slope and within ten feet of the levee toe.
2. The broken 2-inch diameter pipeline must be completely removed from the levee section.
3. Provide encroachment permit information for the chain link fence crossing the levee at levee mile 4.21. If none exists, remove the fence.
4. The tall trees planted within ten feet of the landside levee toe must be removed. Trees further away than 10 feet must be kept trimmed so that tree branches above the area within 10 feet of the levee toe are a minimum of 12 feet above the ground.
5. The grape vine plantings and all associated posts, irrigation, and wood retaining boards at the levee toe and the landside levee slope must be removed.
6. Encroachments associated with EP No. 15112 GM:
 - a. Remove the dilapidated pump house structure and handrail on the levee slope. The pump house may be rebuilt after an encroachment permit is obtained from the CVFPB.
 - b. Provide CVFPB staff with pipe interior inspection results from within the last five years. If there are none available, you are required to have your pipe video inspected and provide the video inspection results to CVFPB staff.
 - c. Apply for a name change for EP No. 15112 GM.
7. If you intend to keep the steps, you must apply for a permit to modify them to comply with CCR Title 23 Section 137(c). Otherwise, the steps must be completely removed and the levee slope re-shaped and compacted to match the surrounding slopes.
8. The unpermitted wood deck, steps, concrete pad, and driveway must be completely removed from the levee slope and from the easements held by the Sacramento-San Joaquin Drainage District and Reclamation District 17.

Notice of Violation
Page 5 of 5

Section D – CVFPB Contact

The staff member assigned to this enforcement action is Ms. Alison Tang, Staff Engineer. E-mail: Alison.Tang@water.ca.gov, desk: (916) 574-2389.

Signed,

A handwritten signature in blue ink, appearing to read "Leslie Gallagher", written over a horizontal line.

Leslie Gallagher
Acting Executive Officer

Exhibits:

1. Legal Authorities
2. Past Notices and Decisions
3. Maps: Vicinity & Location, Easement, Encroachments
4. Encroachment Photos

Legal Authorities – Statutes and Regulations for Enforcement Action 2014-790

California Water Cod (CWC) Section 8700 – *It is unlawful to interfere with, obstruct the performance, maintenance, or operation of, or otherwise take action that may adversely affect the facilities of the State Plan of Flood Control, designated floodways, or streams that are regulated by the CVFPB;*

CWC Section 8710 – *CVFPB approval is required before commencement of construction on or near a levee, embankment, canal, or river (Sacramento or San Joaquin Rivers and their tributaries);*

Code of Federal Regulations Title 33, Section 208.10 – *The structures and facilities constructed by the United States for local flood protection shall be continuously maintained in such a manner and operated at such times and for such periods as may be necessary to obtain the maximum benefits. No encroachment, land improvement, alteration, excavation, or construction shall adversely affect the efficient maintenance and operation of local flood protection structures and facilities, which include levees, flood walls, drainage structures, closure structures, pumping plants, channels, floodways and miscellaneous facilities.*

California Code of Regulations Title 23 Sections:

- 6(a) Need for a Permit – *Every proposal or plan of work, including the placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment or works of any kinds, and including the planting, excavation, or removal of vegetation, and any repair or maintenance that involves cutting into the levee, wholly or in part within any area for which there is an adopted plan of flood control, must be approved by the CVFBP prior to commencement of work;*
- 21(b)(2) Conduct Subject to Enforcement – *Owning, undertaking, or maintaining any work in violation of or inconsistent with any condition of any permit previously issued by or subject to the jurisdiction of the board;*
- 21(b)(3)(A) Conduct Subject to Enforcement – *Owning, undertaking, or maintaining any work that requires a permit or other approval from the board without securing such permit or approval;*
- 120(d) Levees – *Pavement within ten feet of the landside levee toe must have appropriate features that intercept seepage and prevent particle migration.*
- 124(a) Abandoned Pipelines and Conduits – *Abandoned pipelines, conduits...that are located within a levee section (or) within the projected levee section...shall be completely removed and disposed of outside the floodway.*
- 125(a)(2) Retaining Walls – *Retaining walls may be of reinforced concrete, concrete gravity section, or of equivalent material and durability;*
- 126(a)(2) Fences and Gates – *All fences parallel to a levee must be located a minimum distance for ten feet of the levee toe;*

- 127(a)(2)(A)(i) Boating Facilities – *Timber piles must be a minimum of 12 inches in diameter and must be pressure treated.*
- 127(a)(2)(A)(ii) Boating Facilities – *The elevation of the top of each pile must be a minimum of two feet above the design flood plane.*
- 131(c) Vegetation – *Vegetation must not interfere with the integrity of the adopted plan of flood control, or interfere with maintenance, inspection and flood fight procedures.*
- 131(d) Vegetation – *With the exception of naturally occurring vegetation which the owner of the underlying land has no responsibility to maintain, any vegetation which interferes with the successful execution, functioning, maintenance or operation of the adopted plan of flood control must be removed by the owner. If the owner does not remove such vegetation upon request, the board reserves the right to have the vegetation removed at the owner's expense.*
- 131(f)(4) Vegetation – *Tree branches above levee slopes must be pruned and maintained so that the distance from the levee slope to the lowest branches, measured normal to the levee slope, is a minimum of five feet.*
- 131(f)(5) Vegetation – *Trees are not permitted on the crown of standard size levee.*
- 131(f)(7) Vegetation – *Trees, vines, bushes shrubs, or any other form of woody or herbaceous vegetation that grow in a dense form and prevent visual inspection of the levee slope and toe...are not permitted on the levee or within 10 feet of the levee toe.*
- 137(c)(4) Miscellaneous Encroachments – *Steps must be constructed flush with the levee slope.*
- 137(c)(5) Miscellaneous Encroachments – *Handrails are not permitted on steps if they interfere with levee maintenance unless they are required by law.*
- 137(c)(6) Miscellaneous Encroachments – *Handrails, where permitted on waterward levee slopes, shall be designed to give way when subjected to debris loading.*
- 137(d) Miscellaneous Encroachments – *Horizontal (elevated) access ways, with or without handrails, are permitted above the landside and waterward slopes if they do not interfere with levee maintenance.*

SEP 20 1993

Mr. Clinton Marshall
6241 Gettysburg Place
Stockton, California 95207

Dear Mr. Marshall:

Your Reclamation Board Application No. 16065 BD to authorize existing grape vines and a drip irrigation system on the right bank levee of the San Joaquin River in San Joaquin County was considered by the Board at its September 17 meeting.

Your application was not approved. Therefore, please remove the plantings and irrigation system. The vines will be permitted to remain in place until the plants become dormant at the end of this growing season, but not later than January 1, 1994.

If you wish to request reconsideration by the Board because of the lack of full Board attendance, you must do so in writing.

For further information, you may wish to contact Donald L. Jackson at the above address or telephone (916) 653-0402.

Sincerely,

Original signed by
Raymond E. Barsch

Raymond E. Barsch,
General Manager

DLJackson:cp

C:\wp51\forms\marshall.ltr

MAR 04 1994

Application No. 16065

Mr. Clinton Marshall
6241 Gettysburg Place
Stockton, California 95207

Dear Mr. Marshall:

Your Reclamation Board Application No. 16065, to authorize existing grape vines and a drip irrigation system on the right bank levee of the San Joaquin River, was denied by the Board at its February 22, 1994 meeting.

You are hereby notified that you are responsible for removal of the grape vines, metal stakes, and irrigation system within 20 days of the date of this letter.

For further information, you may wish to contact Donald L. Jackson at the above address or telephone (916) 653-0402.

Sincerely,

*Original signed by
Raymond E. Barsch*

Raymond E. Barsch
General Manager

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: Colonel John N. Reese
District Engineer
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Mr. Monte D. McFall
Reclamation District No. 17
1004 East Edison Street
Manteca, California 95336

Mr. Michael Callahan
San Joaquin County Flood Control and
Water Conservation District
Post Office Box 1810
Stockton, California 95201

bcc: Gene Snow

CRedondo:cp

C:\wp51\forms\16065den.ial

File

November 4, 1994

Mr. Clinton Marshall
6241 Gettysburg Place
Stockton, California 95207

Dear Mr. Marshall:

This letter is in regard to Application No. 16065 to retain grape vines, appurtenant metal stakes, and a drip irrigation system on the right bank levee of the San Joaquin River. As you know, your application was denied by The Reclamation Board on February 22, 1994. We followed up with letters on March 4 and April 1 directing you to remove the grape vines and appurtenances within 20 days. Shortly thereafter we were contacted by John Martini of Assemblyman Dean Andal's office regarding a possible compromise solution. We drafted a Memorandum of Agreement which we and Mr. Martini believed to be a reasonable compromise. We mailed that Memorandum of Agreement to you for signature on June 16.

Rodney Mayer, Chief Engineer of the Board, contacted you again in mid-August since we had not received a signed copy of the agreement from you. You stated in that telephone conversation that you would consider sending us a signed copy of the agreement after discussing it with your business partner. On September 21, Mr. Mayer called you again and left a message on your telephone answering machine that if we did not hear from you or receive a signed copy of the agreement by September 23, the matter would be referred to the Attorney General's Office for further action. We then sent you a letter similar to this one on October 4, 1994 by both certified and regular mail. However, the letter sent by certified mail was returned unclaimed.

Please remove the grape vines and appurtenances or sign and return both copies of the enclosed Memorandum of Agreement within ten days of the date of this letter. If you do not, then the Attorney General's Office will begin appropriate legal action. You are reminded that under Sections 8710 and 8719 of the California Water Code any alteration to a levee under jurisdiction of the Board performed without the permission of the Board is deemed a public nuisance.

SURNAME

R. Mayer
11/4/94

Attachment Page 12

05 20106

Mr. Clinton Marshall
November 4, 1994
Page Two

If you have any questions or desire to discuss this matter,
please contact me or Rodney Mayer at (916) 653-5434.

Sincerely,

Original signed by
Rodney G. Mayer

for Raymond E. Barsch
General Manager

Enclosures

SENT BY HAND DELIVERY

cc: Mr. John Martini
Assemblyman Dean Andal's Office
31 East Channel, Suite 306
Stockton, California 95202

Mr. Robert Kelly
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Mr. Matthew Campbell
Deputy Attorney General
Natural Resources Law Section
Department of Justice
1515 K Street, Suite 511
Sacramento, California 94244-2550
(w/agreement)

RGMayer:pva

MEMORANDUM OF AGREEMENT

BETWEEN THE RECLAMATION BOARD
OF THE STATE OF CALIFORNIA
AND MR. CLINTON MARSHALL

REGARDING

REMOVAL OF UNAUTHORIZED GRAPE VINES

WHEREAS, The Reclamation Board duly considered and denied Application No. 16065 BD for Mr. Clinton Marshall to retain grape vines and appurtenances (metal stakes and a drip irrigation system) on the landward slope of the right bank levee of the San Joaquin River; and

WHEREAS, the Board subsequently directed Mr. Marshall to remove the unauthorized grape vines and appurtenances from the levee by April 20, 1994; and

WHEREAS, Mr. Marshall has requested that the grape vines and appurtenances be allowed to remain in place during the remainder of the 1994 growing season in order to harvest this year's crop before removing them from the levee; and

WHEREAS, the Board considers allowing the grape vines to remain on the levee throughout 1994 to be a reasonable accommodation.

NOW, THEREFORE, the parties agree as follows:

1. The grape vines and appurtenances shall be removed from the levee by Mr. Marshall before January 1, 1995 and shall not be placed within 10 feet of the levee toe.
2. Any holes or other damage to the levee caused by removal of the grape vines and appurtenances shall be repaired by Mr. Marshall before January 1, 1995.
3. The Board will not disturb the grape vines before January 1, 1995 except as necessary for inspection, repair, or flood fight.
4. If the grape vines and appurtenances are not completely removed from the levee and within 10 feet of the levee toe by January 1, 1995, the Board may, at its sole discretion, remove, kill, or otherwise disturb the grape vines and appurtenances.
5. Neither party is entitled to compensation for the grape vines and appurtenances or their removal.

Clinton Marshall

General Manager
The Reclamation Board

Date _____

Date _____

STATE OF CALIFORNIA – THE NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
 SACRAMENTO, CA 95821
 (916) 574-0609 FAX: (916) 574-0682
 PERMITS: (916) 574-2380 FAX: (916) 574-0682

**Sent Via U.S. Certified Mail Return Receipt Requested****Please Respond By January 9, 2015**

December 4, 2014

Mr. James Silveria
 1672 W Bowman Road
 French Camp, California 95231

Subject: Encroachments on the San Joaquin River East Project Levee, Right (East) Bank, Unit 2
Encroachment ID: 2014-790
APNs 191-280-16, 191-280-15, 191-280-29, 191-280-13 (San Joaquin County)

Dear Mr. Silveria:

You are receiving this letter from the Central Valley Flood Protection Board (CVFPB) because during an inspection by California Department of Water Resources (DWR) staff, it was determined that encroachments on your property and within the Sacramento-San Joaquin Drainage District (SSJDD) easement may adversely affect the flood control facilities within the CVFPB's jurisdiction, including the State-federal Project levee. The U.S. Army Corps of Engineers (USACE) has also inspected this levee for eligibility in the Public Law PL 84-99 Rehabilitation Program. They rated some of these encroachments as "Unacceptable," which will cause the levee to be ineligible for federal levee rehabilitation funding.

Location: Latitude: 37°51'46.33"N, Longitude: 121°19'10.74"W
 Levee Mile 4.18 to 4.31

Description of Noncompliant Encroachments:

Item No.	Description	Levee Mile (See Attachment 1 for locations)	USACE ID
1	Low dense landscaped shrubs, small trees and irrigation covering the landside levee slope	4.18 to 4.27	MOS2_2009_0199
2	Broken 2-inch diameter pipeline and adjacent electrical conduit penetrating the levee from the waterside slope. Possibly associated with Encroachment Permit (EP) No. 15111 GM (Attachment 2).	4.21	MOS2_2009_0155

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3	Chain link fence crossing levee	4.21	MOS2_2009_0154
4	Line of tall 18-inch- to 36-inch-diameter trees on and near the landside levee toe	4.22 to 4.27	MOS2_2009_0197
5	Grapevine plants on the landside levee slope. Previous orders from the Reclamation Board (now the CVFPB) for the removal of these grapevines attached (Attachment 3)	4.22 to 4.27	MOS2_2009_0196
6	Dilapidated pump house, concrete steps, handrail on waterside toe and slope associated with EP No. 15112 BD (Attachment 2).	4.25	MOS2_2009_0202
7	Steps on landside slope, fence at landside toe.	4.25	n/a
8	Wood deck attached to brick building abuts the levee crown and has posts buried into the landside slope.	4.27 to 4.28	MOS2_2009_0194
9	Chain link fence crossing levee	4.28	MOS2_2009_0195
10	Two-inch diameter steel pipe coming out of the landside slope.	4.30	MOS2_2009_0189
11	Eroded steps with handrail and concrete-block retaining wall on the upper landside slope.	4.30	MOS2_2009_0190
12	Tall 18-inch-diameter tropical tree on landside hinge	4.30	MOS2_2009_0191
13	Wooden stairs with abandoned wood boat dock and fallen flag pole	4.30	MOS2_2009_0205

Recommended Corrective Actions:

The California Code of Regulations (CCR) Title 23 requires all noncompliant and unpermitted encroachments within the levee and within an SSJDD easement be removed by the landowner at the landowner's expense. If the unpermitted encroachments can be modified to comply with existing state and federal regulations, they may be eligible for a permit from the CVFPB.

Prior to the commencement of any removal work, please submit a Removal and Repair Plan with Schedule that complies with all applicable State and federal laws for review and approval by Central Valley Flood Protection Board (CVFPB) staff. If the proposed plan is deemed appropriate, you will receive a Letter of Authorization (LOA) for the work. Your Removal and Repair Plan with Schedule must include the following:

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1. Removal of shrubs, trees, and irrigation from landside levee slope.
2. The broken pipe associated with EP No. 15111 BD must be completely removed from the levee section.
3. Provide encroachment permit information for the chain link fence crossing the levee. If none exists, remove the fence.
4. The tall trees planted within ten feet of the landside levee toe must be removed. Trees further away than 10 feet must be kept trimmed so that tree branches above the area within 10 feet of the levee toe are a minimum of 12 feet above the ground.
5. The grape vine plantings and associated posts and irrigation on the landside levee slope must be removed.
6. Encroachments associated with EP No. 15112 GM:
 - a. Remove the dilapidated pump house structure and handrail on the levee slope. The pump house may be rebuilt after an encroachment permit is obtained from the CVFPB.
 - b. Apply for a name change for EP No. 15112 GM.
7. The steps must be modified to comply with CCR Title 23 Section 137 (c) to be eligible for an encroachment permit.
8. The wood deck attached to brick building must be removed, or modified to comply with CCR Title 23 to be eligible for an encroachment permit.
9. Provide encroachment permit information for the chain link fence crossing the levee. If none exists, remove the fence.
10. The two-inch diameter steel pipe in the landside slope does not have an encroachment permit, and therefore must be removed from the levee.
11. The eroded steps with handrail and concrete-block retaining walls on the landside slope must be removed from the levee.
12. The tropical tree, including its root ball, on the landside levee hinge must be removed from the levee.
13. The wooden stairs, abandoned wood boat dock, and fallen flag pole on the levee waterside must be removed.
14. Any excavation or voids must be backfilled and compacted, and the levee repaired in compliance with CCR Title 23.

Failure to comply with the requests in this letter, which include submitting your removal and repair plan to the CVFPB by **January 9, 2015**, will result in the CVFPB initiating a formal enforcement action. This formal action may result in remedial and enforcement actions, including, but not limited to corrections of the violation by the CVFPB at the responsible parties expense, and penalties. Administrative penalties

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can range from \$500 to \$50,000 depending on the severity of the violation. Civil penalties can range from \$1,000 to \$15,000 per day for each day in which the violation persists.

CVFPB staff appreciates your cooperation and looks forward to resolving this issue for the betterment of the community's flood protection system. If you have any questions please contact Ms. Alison Tang at (916) 574-2389, or by e-mail at Alison.Tang@water.ca.gov. The CVFPB's website provides additional information on our regulations, permitting and enforcement at: www.cvfpb.ca.gov.

Sincerely,



Michael Wright, PE
Chief, Enforcement Section

~~Attachments:~~

- ~~1. Encroachment Map~~
- ~~2. Encroachment No. 15111 GM and EP No. 15112 BD~~
- ~~3. Past Notices from the Reclamation Board~~
- ~~4. Vicinity, Location, and Easement Maps~~
- ~~5. Encroachment Photos~~

cc: Mr. Christopher Neudeck, Reclamation District 17
Mr. David Pesavento, DWR
Ms. Alison Tang, CVFPB

Vicinity Map



Location Map



FILE SPEC: P:\0556-Mossdale\0580_Silveria Encroachment Violation\04_Survey\300_Boundary\preliminary\Silveria_Property_Exhibit.dwg
PLOT DATE: May 30, 2014 - 9:27am



INCLUDES COPYRIGHTED MATERIAL OF DIGITAL GLOBE, INC. ALL RIGHTS RESERVED. BACKGROUND AERIAL PHOTOGRAPHY IS THE 2008 1-FOOT RESOLUTION STOCKTON/MODESTO AERIAL PHOTOGRAPHY FROM DIGITAL GLOBE ACQUIRED FROM LANDISCORP. CONTACT KSN INC. FOR MORE INFORMATION.

THE PHOTO BACKGROUND IS INTENDED FOR REFERENCE ONLY AND IS BASED ON SIMPLE RECTIFICATION. FEATURE LOCATIONS SHOWN ARE NOT PRECISE.

KJELDSSEN SINNOCK NEUDECK INC.
Civil Engineers and Land Surveyors
711 N. Pershing Avenue
Stockton, CA 95203-2152
Office: (209) 946-0268
Faxes: (209) 946-0296
E-mail: KSN@ksninc.com

Scale
1" = 60'
Original Drawing Scale
0 1/2" 1"



RECLAMATION DISTRICT NO. 17
APN 191-280-13, 15, 16 & 29
SILVERIA PROPERTY
ENCHROACHMENT SITE EXHIBIT

EXHIBIT
A
PAGE 1

DRAFT

Encroachment Locations Map



1. Low dense landscaped shrubs, small trees and irrigation covering the landside slope.



Photos source: CVFPB staff, June 2013

2. Broken 2-inch pipeline penetrating the levee from the waterside slope. EP 15111 GM



Photos source: CVFPB staff, June 2013

3. Chain link fence with gate crossing the levee at levee mile 4.21



Photos source: CVFPB staff, June 2013

4. Line of tall 18- to 36-inch diameter trees on and near landside levee toe



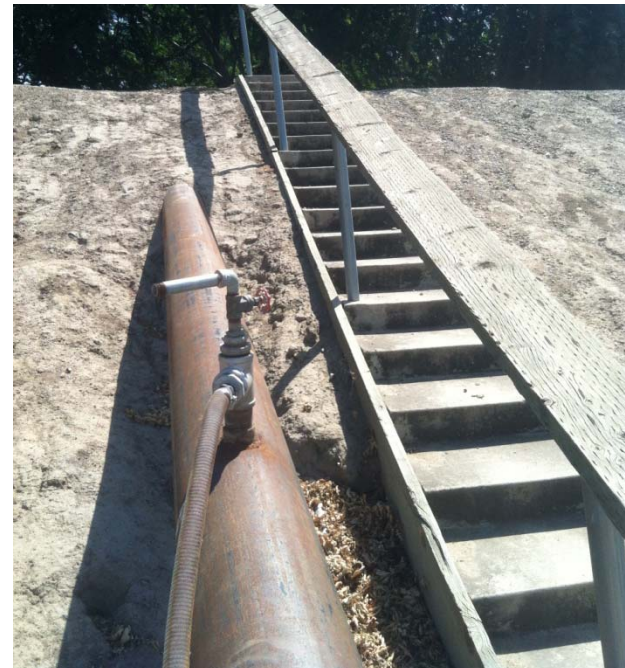
Photos source: CVFPB staff, June 2013

5. Grapevine plants on the landside levee slope. Subject of past removal notices.



Photos source: CVFPB staff, June 2013

6. Dilapidated pump house, concrete steps, handrail associated with EP No. 15112 BD



Photos source: CVFPB staff, June 2013

7. Steps on landside slope, fence at landside toe.



Photos source: CVFPB staff, June 2013

8. Wood deck, steps, concrete pad, and driveway attached to the brick building.



Photos source: CVEPB staff, June 2013

9. Chain link fence with gate crossing levee at levee mile 4.28.



Photos source: CVFPB staff, June 2013

10. Two-inch steel pipe coming out of landside slope.



Photos source: CVFPB staff, June 2013

11. Eroded steps with handrail and concrete-block retaining wall on upper landside slope



Photos source: CVFPB staff, June 2013

Attachment Page 33

12. Tall 18-inch diameter tropical tree on landside hinge



Photos source: CVFPB staff, June 2013

13. Wooden stairs with abandoned wood boat dock and fallen flag pole



Photos source: CVFPB staff, June 2013

C&D Attachment 2

Jim Silveria

PQ 682

French Camp, CA 95231

January 7, 2015

State of California

California Natural Resources Agency

Central Valley Food Protection Board

Mr. Michael Wright PE

Chief Enforcement Section

3310 El Camino Avenue, Room 151

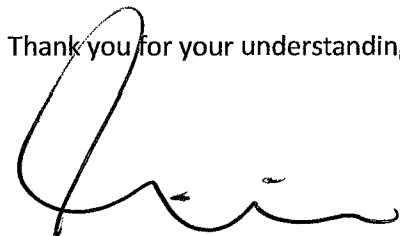
Sacramento, CA 95821

Dear Mr. Wright:

RE: Encroachment Permit #1511GM and ED NO. 15112BD

I am responding to your notification on December 9, 2014. We have located your concerns on our property and are doing our research to see what we are responsible for. Other landowners have easements and machinery that are in question prior to removing these items. We are checking deeds and responsibility factors. We will have more to offer with your concerns soon.

Thank you for your understanding.

A handwritten signature in black ink, appearing to read 'Jim Silveria', with a large loop at the start and a wavy line at the end.

Jim Silveria